IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.234 OF 2006
IN
CRIMINAL APPEAL NO.208 OF 2005

Kamlu Haushiram Gawanda ...Applicant.
Versus
The State of Maharashtra ...Respondent.

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Mr.Z.M.Avhad, Advocate for the Applicant.
Mrs.U.V.Kejariwal, APP, for the State.

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CORAM : D.G.DESHPANDE AND
SMT.V.K.TAHILRAMANI, JJ.

DATED : APRIL 25, 2006.

P.C.:

. Heard Mr.Avhad, the learned Advocate for the applicant-original accused No.1, who has applied for bail. The Appeal is admitted. The applicant has been convicted under Section 302 of IPC for committing murder of Dnyaneshwar.

2. P.W.1 Vithal Ghare is an eye witness. However, as revealed by the judgment, Vithal fell on ground because of the assault and became unconscious. The cause of death of the Dnyaneshwar is strangulation. P.W.1 Vithal does

not state about strangulation of deceased by anyone. P.W.2 Hiraman Girhe also does not say anything about strangulation of deceased. Thus there is no evidence to show that the applicant strangulated the deceased. No incriminating material has been recovered at the instance of the accused. The learned APP has submitted that a stick was recovered at the instance of the accused. However, we have seen that death has been caused by strangulation and not due to assault by stick.

3. Therefore, in the circumstances, accused No.1 be released on P.R. bond of Rs.15,000/- (Rs.Fifteen Thousand Only) with one or two solvent sureties in the like amount. He should report to the concerned police station once in a month.

4. Application is disposed of.

(D.G.DESHPANDE, J.)

(SMT.V.K.TAHILRAMANI,J.)